

VZCZCXRO8545
RR RUEHCHI RUEHDT RUEHHM RUEHNN
DE RUEHBK #1006/01 0910356
ZNR UUUUU ZZH
R 310356Z MAR 08
FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC 2479
RUCNASE/ASEAN MEMBER COLLECTIVE
RUCPDOG/USDOC WASHINGTON DC

UNCLAS SECTION 01 OF 03 BANGKOK 001006

SIPDIS

SENSITIVE

SIPDIS

STATE PASS USTR
USDOC FOR 4430/EAP/MAC/OKSA

E.O. 12958:N/A
TAGS: [ECON](#) [ETRD](#) [KIPR](#) [TH](#)

SUBJECT: USTR PUSHES RTG TO ESTABLISH ECONOMIC DIALOGUE, RESOLVE CL
ISSUE AND IMPROVE IPR

REF: A) BANGKOK 904; B) 07 BANGKOK 5405

11. (SBU) Summary: On March 17 and 18, Assistant USTR Barbara Weisel and USTR Director for Southeast Asia David Bisbee met with a range of RTG officials and private sector contacts in a bid to renew regular contact on economic issues with the newly elected government. Weisel proposed the two governments pursue a regular dialogue to discuss bilateral and regional issues to which Thai Commerce Department officials agreed. The continuing controversy over compulsory licensing of patented drugs was raised by Thai officials in nearly every meeting. RTG officials showed interest managing the issue and in continued discussions with the pharmaceutical industry, but made clear that relevant agencies had not yet coordinated their positions or reached a decision on next steps. A tentative way forward was reached in a meeting with Thai Customs that may resolve concerns over valuation of distilled spirits. Weisel pressed officials in various meetings to clarify the country's trade and investment policies and send positive signals to investors, particularly in the face of increased competition from Thailand's regional competitors. IPR protection was listed as a prime area of concern in which Thailand was falling behind its neighbors. Despite its assertions that it wants to improve the trade and investment climate, the new government is still finding its way and coordination on economic policy may be sluggish in the short run. End Summary.

Economic dialogue

12. (SBU) Ms. Weisel noted to Commerce officials that since the 2006 military coup and the suspension of FTA negotiations that there had been infrequent contact on economic issues. She proposed to pursue a dialogue to regularly discuss bilateral and regional issues. Ms. Chutima Bunyaprapharasa, Director General of the Department of Trade Negotiations, agreed that a regular dialogue would be useful but suggested it could be done on the margins of other international meetings. Weisel disagreed as key officials were often not present at the same meetings, and proposed that dedicated meetings be arranged several times per year. She said that holding sub-group meetings during these dialogues, for example on IPR issues, would be of particular value given the many specific issues that need to be discussed in detail. Chutima suggested that Thai officials come to Washington in the next few months for a dialogue meeting.

13. (SBU) Weisel noted to Siripol that investors were closely watching the new government's statements, looking for signals of where trade and investment policy was headed. As those signals were still not clear, Weisel urged Siripol to communicate the government's economic priorities to business and the general public. She compared Thailand's economic performance unfavorably to regional competitors including Vietnam who were making strides in

reforming business regulations and building institutions to drive trade and investment growth. Siripol was somewhat dismissive and obviously sensitive to the comparison to Vietnam, but said he understood that investors were watching and hoped that trade would increase now that Thailand had returned to an elected government.

Compulsory licenses

14. (SBU) In separate meetings, officials from the Ministries of Foreign Affairs, Commerce and Public Health asked AUSTR Weisel about her views on the new administration's policy on compulsory licenses (CL) of patented pharmaceuticals. Weisel encouraged greater cooperation with the pharmaceutical industry and an undertaking of serious negotiations with affected companies. PM Samak had earlier tasked these three Ministries to review the previous government's policy of breaking drug patents and come to a joint decision on how and whether to proceed with the policy. Although receptive to negotiations and aware of the possible negative implications on Thailand's image as a dependable economic partner, officials indicated a lack of coordination among ministries and uncertainty about how to bring forth a resolution of the highly sensitive issue.

Officials said that meetings between the Ministries on the issue would continue over the next week, but were not clear on how they would come to a policy decision. MFA officials said planned meetings have not yet taken place due to the Minister's travels.

15. (SBU) Deputy Permanent Secretary Dr. Paijit Warachit of the Ministry of Public Health told Weisel that the Ministry "did not intend to do new compulsory licenses." Regarding those previously issued, he laid responsibility on the previous government, saying "we are not involved." Weisel noted that should the current government import generic copies under the previous CLs that the government would be taking ownership of them. Weisel stated that a

BANGKOK 00001006 002 OF 003

real solution would have to include all previously issued CLs, and encouraged Paijit to engage with industry. She suggested that industry's proposal for a Joint Committee of health officials and companies to work on public health issues expand to include the Ministries of Commerce and Foreign Affairs. Paijit agreed the Joint Committee could be a beneficial element in improving public health for the poor, and disclosed he was planning to meet with the local industry association the next week to discuss it. However, he opined that he was in "a difficult time" and was waiting for a policy decision from above.

16. (SBU) During a courtesy call by Ambassador John on Minister of Commerce Mingkwan Sangsuwan (reftel A), the Minister was asked for assistance in resolving the CL issue. Mingkwan lamented that the previous government had left them such a controversial issue and promised that his staff would study the issue "with a positive attitude." He believed the issue belonged with the Ministry of Public Health. "We take a passive role," Mingkwan said, but said his Ministry would participate in deliberations. In an ensuing meeting with Permanent Secretary Siripol Yodmuangcharoen, Weisel again encouraged the Ministry to reconstitute the Joint Committee and initiate a more constructive discussion on the CL issue, particularly before taking any actions that would threaten to dismantle the patent system that his Ministry was responsible for maintaining. Siripol said the government had to balance its international IPR commitments with the interests of the country, but that he wanted "to do something."

17. (SBU) In other meetings on the issue it was clear that the previous government's arguments in favor of CLs continued to resonate and there was little understanding of industry's positions. MFA officials brought up questions on the U.S. use of compulsory licenses and asked for any information that would counter NGO claims that compulsory licenses were a routine occurrence in the U.S. and around the world. In a separate meeting with Mr. Kiat Sittheeamorn, shadow Commerce Minister in the opposition Democrat Party, Kiat noted that CL proponents claimed that the policy was WTO consistent and questioned why the USG had not provided a counter argument. In a final meeting with industry representatives, several companies agreed that industry's efforts to explain their position to RTG

officials, press and the general public had been generally ineffective.

IPR and Special 301

¶8. (SBU) Weisel brought up with Commerce the ongoing USTR Special 301 review of global IPR protection. She noted that while the compulsory license issue had been a high-profile one for Thailand, it was only one of many issues and serious concerns remained on enforcement, judicial and legislative issues surrounding IP protection. Ms. Puangrat Assavapisit, Director General of the Department of Intellectual Property, said her department was strengthening its IP task force and would be working more closely with police units to trace back pirated merchandise to the manufacturers. An inter-agency working group would also be established to improve coordination on enforcement. Siripol claimed that a great deal of effort had already been put into improving enforcement and believed that Thailand's enforcement was superior to other countries in the region. Weisel disagreed with his assessment. She pointed out that Malaysia recently had taken on IP enforcement as a domestic issue in a bid to attract more knowledge-based industries and suggested Thailand do the same. To get issue on track, she suggested that the two governments work on an IPR action plan.

WTO and the Doha Round

¶9. (SBU) Weisel turned to ongoing negotiations in the WTO Doha Round and expressed disappointment that ASEAN had recently submitted a paper demanding a revised Rules text as a precondition for moving Doha negotiations forward. DG Chutima said she had not been following that particular issue closely, but would check on it. Weisel said she hoped that we could expect significant offers from Thailand on services and non-agricultural market access, noting that Thailand's current services offer included foreign ownership bindings much lower than what is currently allowed. She also requested that Thailand consider taking commitments in several important sectors where Thailand currently has no GATS commitments. Weisel brought up Minister Mingkwan's stated desire to make Thailand a business hub and suggested that a reluctance to make significant commitments in important sectors such as telecommunications, distribution, express delivery and financial services would undermine any effort to reach that goal. Siripol said that his

BANGKOK 00001006 003 OF 003

Ministry did not have the lead on many of the services sectors, but conceded that the RTG needed to push further with services liberalization.

Customs

¶10. In a meeting with Thai Customs, Weisel inquired about an ongoing WTO case on Thailand's customs valuation procedures brought by the EU (reftel B), and asked whether a proposed settlement would apply to U.S. companies as well. Weisel asked for assurances that there would be a permanent solution to the valuation problems, noting that a similar problem had arisen five years prior, was resolved temporarily and then reappeared. Deputy Director General Chawewan Kongcharoenkitkul said the Customs Department would be implementing new guidelines to customs officers on how to apply customs valuation according to the WTO valuation system, accepting the declared valuation unless there was sufficient "reason to doubt." She said she would send these guidelines to the U.S. for comment. She added that front-line officers would not be authorized to make that judgment and would do so only in consultation with supervisors. She also promised that pending cases under bank guarantee would be reviewed and cleared within three months. Weisel said the U.S. would review the guidance, but that it would keep all of its options open for resolving the issue until it was satisfied that its concerns had been fully addressed.

Comment

¶11. (SBU) Despite public comments that it will work to improve the investment and trade environment, the new RTG economic team appeared to still be struggling to outline its economic policies and coordinate between ministries on issues, particularly on a controversial issue like compulsory licenses. In a number of meetings, our interlocutors expressed some doubt that this current lineup of Ministers would be in place for long, including Minister Mingkwan who frequently punctuated comments on his plans with "If I'm still here...". Although RTG officials were receptive to the idea of bilateral dialogue on economic issues, high-level attention to coordination on individual issues may be sporadic as the new government finds its way.

JOHN